

## § 310.11

(f) *System Manager's evaluation.* (1) Evaluate the information to be included in each new system before establishing the system and evaluate periodically the information contained in each existing system of records for relevancy and necessity. Such a review shall also occur when a system notice alteration or amendment is prepared (see § 310.33 and § 310.34).

(2) Consider the following:

(i) The relationship of each item of information retained and collected to the purpose for which the system is maintained;

(ii) The specific impact on the purpose or mission of not collecting each category of information contained in the system;

(iii) The possibility of meeting the informational requirements through use of information not individually identifiable or through other techniques, such as sampling;

(iv) The length of time each item of personal information must be retained;

(v) The cost of maintaining the information; and

(vi) The necessity and relevancy of the information to the purpose for which it was collected.

(g) *Discontinued information requirements.* (1) Stop collecting immediately any category or item of personal information for which retention is no longer justified. Also delete this information from existing records, when feasible.

(2) Do not destroy any records that must be retained in accordance with disposal authorizations established under 44 U.S.C. 3303a, Examination by Archivist of Lists and Schedules of Records Lacking Preservation Value; Disposal of Records."

## § 310.11 Standards of accuracy.

(a) *Accuracy of information maintained.* Maintain all personal information used or may be used to make any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in making any such determination.

(b) *Accuracy determinations before dissemination.* Before disseminating any personal information from a system of records to any person outside the De-

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partment of Defense, other than a Federal Agency, make reasonable efforts to ensure the information to be disclosed is accurate, relevant, timely, and complete for the purpose it is being maintained (see § 310.21(d)).

## § 310.12 Government contractors.

(a) *Applicability to government contractors.* (1) When a DoD Component contract requires the operation or maintenance of a system of records or a portion of a system of records or requires the performance of any activities associated with maintaining a system of records, including the collection, use, and dissemination of records, the record system or the portion of the record system affected are considered to be maintained by the DoD Component and are subject to this part. The Component is responsible for applying the requirements of this part to the contractor. The contractor and its employees are to be considered employees of the DoD Component for purposes of the criminal provisions of 5 U.S.C. 552a(i) during the performance of the contract. Consistent with the Federal Acquisition Regulation (FAR), Part 24.1, contracts requiring the maintenance or operation of a system of records or the portion of a system of records shall include in the solicitation and resulting contract such terms as are prescribed by the FAR.

(2) If the contractor must use, have access to, or disseminate individually identifiable information subject to this part in order to perform any part of a contract, and the information would have been collected, maintained, used, or disseminated by the DoD Component but for the award of the contract, these contractor activities are subject to this part.

(3) The restriction in paragraphs (a)(1) and (2) of this section do not apply to records:

(i) Established and maintained to assist in making internal contractor management decisions, such as records maintained by the contractor for use in managing the contract;

(ii) Maintained as internal contractor employee records even when used in conjunction with providing goods and services to the Department of Defense; or

(iii) Maintained as training records by an educational organization contracted by a DoD Component to provide training when the records of the contract students are similar to and commingled with training records of other students (for example, admission forms, transcripts, academic counseling and similar records).

(iv) Maintained by a consumer reporting agency to which records have been disclosed under contract in accordance with the Federal Claims Collection Act of 1966, 31 U.S.C. 3711(e).

(v) Maintained by the contractor incident to normal business practices and operations.

(4) The DoD Components shall publish instructions that:

(i) Furnish DoD Privacy Program guidance to their personnel who solicit, award, or administer Government contracts;

(ii) Inform prospective contractors of their responsibilities, and provide training as appropriate, regarding the DoD Privacy Program; and

(iii) Establish an internal system of contractor performance review to ensure compliance with the DoD Privacy Program.

(b) *Contracting procedures.* The Defense Acquisition Regulations Council shall develop the specific policies and procedures to be followed when soliciting bids, awarding contracts or administering contracts that are subject to this part.

(c) *Contractor compliance.* Through the various contract surveillance programs, ensure contractors comply with the procedures established in accordance with § 310.12(b).

(d) *Disclosure of records to contractors.* Disclosure of records contained in a system of records by a DoD Component to a contractor for use in the performance of a DoD contract is considered a disclosure within the Department of Defense (see § 310.21(b)). The contractor is considered the agent of the contracting DoD Component and to be maintaining and receiving the records for that Component.

### § 310.13 Safeguarding personal information.

(a) *General responsibilities.* DoD Components shall establish appropriate ad-

ministrative, technical and physical safeguards to ensure that the records in each system of records are protected from unauthorized access, alteration, or disclosure and that their confidentiality is preserved and protected. Records shall be protected against reasonably anticipated threats or hazards that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual about whom information is kept.

(b) *Minimum standards.* (1) Tailor system safeguards to conform to the type of records in the system, the sensitivity of the personal information stored, the storage medium used and, to a degree, the number of records maintained.

(2) Treat all unclassified records that contain personal information that normally would be withheld from the public under Freedom of Information Exemption Numbers 6 and 7 of 286.12, subpart C of 32 CFR part 286 ("DoD Freedom of Information Act Program") as "For Official Use Only," and safeguard them accordingly, in accordance with DoD 5200.1-R even if they are not actually marked "For Official Use Only."

(3) Personal information that does not meet the criteria discussed in paragraph (b)(2) of this section shall be accorded protection commensurate with the nature and type of information involved.

(4) Special administrative, physical, and technical procedures are required to protect data that is stored or processed in an information technology system to protect against threats unique to an automated environment (see appendix A).

(5) Tailor safeguards specifically to the vulnerabilities of the system.

(c) *Records disposal.* (1) Dispose of records containing personal data so as to prevent inadvertent compromise. Disposal methods are those approved by the Component or the National Institute of Standards and Technology. For paper records, disposal methods, such as tearing, burning, melting, chemical decomposition, pulping, pulverizing, shredding, or mutilation are acceptable. For electronic records, and media, disposal methods, such as overwriting, degaussing, disintegration,